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OFFICE OF THE
EXECUTIVE SECRETARY
June 15, 2000

Guy M. Hicks
General Counsel

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Petition of ICG Telecom Group, Inc. for Arbitration of an Interconnection Agreement with BellSouth Telecommunications, Inc. Pursuant to Section 252(b) of the Telecommunications Act of 1996*
Docket No. 99-00377

Dear Mr. Waddell:

This letter is in response to the proposed Final Order of Arbitration submitted by ICG Telecom Group, Inc. ("ICG") in the above-referenced matter. BellSouth respectfully requests that the Authority strike or, in the alternative, decline to consider the proposed order.

The Authority should strike the proposed order because it takes liberties with the Authority's rulings and in some cases misstates them altogether. For example, on page 4 of the proposed order, ICG writes "*The Authority therefore finds that...a requesting carrier is entitled to obtain current combinations of loop and transport on an unrestricted basis at UNE prices.*" (Emphasis added). In actuality, the Authority stated its belief that the FCC concluded that "a requesting carrier is entitled to obtain existing combinations of loop and transport...on an unrestricted basis...." (Administrative Session Transcript, at 4). The Authority, however, explicitly recognized the requirement that a CLEC must be providing a significant amount of local exchange service to avail itself of the use of special access facilities as a loop/transport combination. (Tr. at 3). Thus, it is hardly appropriate to characterize the Authority's holding as requiring BellSouth to provide "unrestricted access" to loop/transport combinations.

Moreover, on page 5 of the proposed order, ICG states that "where ICG (or any other CLEC for that matter) is providing local exchange service to a customer...." ICG presumably is trying to take a decision in a two-party arbitration and, through artful

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drafting, broaden it as if it were an order in a generic docket. As the Authority recognized in its ruling, the matter before the Authority was a two-party arbitration, and the issue before the Authority was whether BellSouth is obligated to "provide ICG" with EELs. (Tr. at 5). The decision does not have universal applicability and ICG's attempt to broaden the decision is inappropriate.

By way of further example, in footnote 3 ICG writes that "[s]ince ICG is willing to comply with the single precondition established by the FCC [to provide local service], there is no basis for BellSouth to refuse to convert special access facilities to EELs." (Proposed Order, at 5). This is perhaps the most egregious of ICG's liberties with the transcript. Nowhere in the Authority's deliberations is the issue of the degree to which ICG provides local service even addressed, much less ruled upon. In fact, it arguably would have been inappropriate for the Authority to make such a finding given that ICG's testimony on this issue was conflicting throughout the various states in which hearings were held on this issue. ICG, without authority, has attempted to create for itself an order that holds *per se* that ICG is providing the requisite amount of local traffic over special access facilities without any self-certification whatsoever from ICG's network personnel who will actually be administering ICG's traffic. It is not surprising that ICG buried this attempt to enhance the Authority's ruling in a lengthy footnote.

These examples are just a few of the various liberties ICG has taken with the Authority's decision in this matter. Because the proposed order does not accurately reflect what the Authority held, the Authority should either strike it or decline to consider it. Should the Authority wish additional information on this matter, or desire BellSouth to submit a proposed order of its own, please let us know.

Very truly yours,



Guy M. Hicks

cc: Hon. Gary Hotvedt, Hearing Officer
Henry Walker, Esquire
Lisa Foshee, Esquire

CERTIFICATE OF SERVICE

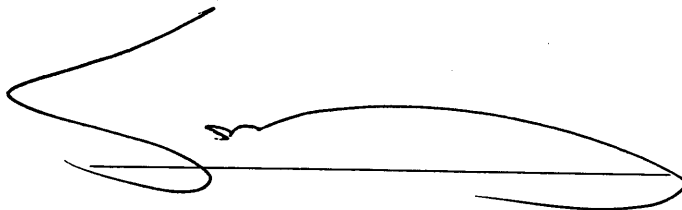
I hereby certify that on June 15, 2000, a copy of the foregoing document was served on the parties of record, via the method indicated:

- ☒ Hand
- ☐ Mail
- ☐ Facsimile
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Tennessee Regulatory Authority
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- ☐ Hand
- ☒ Mail
- ☐ Facsimile
- ☐ Overnight

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A handwritten signature in black ink, appearing to be a stylized 'H' or 'W' followed by a long horizontal stroke.